
(2022) 12 TEL CK 0032
In the Telangana High Court
Case No : Writ Petition No. 29853 Of 2022

G Srinivas

APPELLANT

Vs

State Of Telangana And 2 Others

RESPONDENT

Date of Decision : 15-12-2022

Acts Referred:

Constitution Of India, 1950 — Article 14, 21

Prevention of Corruption Act, 1988 — Section 7(a), 12, 13(1)(a), 13(1)(c), 13(1)(d)

Citation : (2022) 12 TEL CK 0032

Hon'ble Judges : E.V.Venugopal, J

Bench : Single Bench

Advocate : Avadesh Narayan Sanghi

Final Decision : Allowed

Judgement

1 This writ petition is filed with the following prayer:

"It is , therefore, prayed that this Hon'ble Court may be pleased to issue a appropriate writ order or direction more particularly a writ of mandamus by declaring that call for the records relating to and connected with Proceedings RC No B/532/2019-2 dated 23/06/2021 and set aside the same holding it absolutely illegal arbitrary and Un-constitutional violative of article 14 and 21 of Constitution of India and consequently direct the Respondents to Reinstate the petitioner to duty as Assistant Executive Officer with all consequential benefits including payment of areas of salary and all other service benefits in the interest of justice..."

2 Sri Pratap Narayan Sanghi, the learned Senior Counsel appearing for the Writ Petitioner submits that based on the Newspaper caption 'Saraswathi Shakshiga Dopidi Parwam', published in Shakshi daily Telugu Newspaper of Nirmal District dated 26.11.2017, the Anti Corruption Bureau, Adilabad Police Station, registered a case in Crime No.02/ACB-KAD/2020 against the Writ Petitioner/ Accused No.2 and other accused for the offences punishable under Sections 7

(a), 13 (1) (a) of Prevention of Corruption Act, 1988 read with Section 13 (1) (c)&(d) and 12 of P.C. Act, 1988 and also on other I.P.C. offences, on 04.07.2020, after lapse of three years. He further submits that even though the investigation is pending with the ACB, the 3rd respondent suspended the writ petitioner vide order dated 23.06.2021 and also issued a charge memo. He further submits that no preliminary enquiry was conducted by the 3rd respondent, who is the competent authority to initiate disciplinary proceedings before issuing the charge memo. He further submits that the initiation of disciplinary proceedings and keeping the writ petitioner under suspension is per se illegal. The learned counsel for the petitioner relied on the ratio laid down by the High Court of Andhra Pradesh in A.B.Venkateswara Rao v. State of Andhra Pradesh 2020 (6) ALD 33 (A) (DB) and further submits that even after lapse of two years from the date of registration of FIR no charge sheet has been filed as contemplated under law till today.

3 Per contra, the learned Standing Counsel for the 3rd respondent submits that after receiving the preliminary enquiry report from the Director General, ACB, the Government, vide Memo dated 13.05.2021 directed the second respondent to keep the petitioner under suspension with immediate effect. In compliance of the same, the third respondent suspended the petitioner from service vide proceedings dated 23.06.2021. He further submitted that the petitioner also submitted his explanation requesting to reinstate him into service. The learned standing counsel further submitted that the Review Committee reviewed the suspension cases arising out of the investigations conducted by the Anti Corruption Bureau, Hyderabad on 13.05.2021 and the Committee after going through the details of each case and keeping in view the gravity of allegation with reference to the relevant rules and orders issued in G.O.Ms.No.86 GA (Ser.C) Department dated 08.03.1994; G.O.Ms.No.526 GA (Ser.C) Department dated 19.08.2008 read with G.O.Ms.No.2285 GA (Ser.C) Department dated 18.05.2012, recommended to continue the writ petitioner under suspension for a further period of Six months and, therefore, the 3rd respondent is not competent to revoke the suspension imposed against the writ petitioner and also not competent to finalize the disciplinary proceedings.

4 On the other hand, the learned Government Pleader for Endowments also submitted that the Review Committee headed by the Secretary to Government, Revenue (Endowment) Department recommended to continue the writ petitioner under suspension for a further period of Six months and, therefore, neither the 2nd respondent nor the 3rd respondent is competent to revoke the suspension imposed against the writ petitioner and also not competent to finalize the disciplinary proceedings.

5 Admittedly, the petitioner was placed under suspension by virtue of the proceedings of the third respondent dated 23.06.2021. It is also born out of the counter affidavit as well as from the submissions made by the learned standing counsel for the third respondent that the review committee in its meeting held on

13.05.2021 recommended to continue the petitioner under suspension for a further period of six months. Thereafter the Government vide Memo No.19778/Vig.1(2)/2020 dated 04.06.2022 have accepted the said recommendation of the review committee.

6 In A.B.Venkateswara Rao case (1 supra) the Hon'ble High Court of Andhra Pradesh held as under:

56. Rule 3 of the 1969 Rules, talks of suspension. The factors, which are necessary for placing an Officer under suspension are: (a) the circumstances of the case, (b) the nature of the charges, and (c) satisfaction, necessity and desirability.

57. This Court is reiterating that for an Officer to be placed under suspension, by virtue of a plain language interpretation of this case, the Authority should be satisfied basing upon the circumstances of the case, the evidence collected till then and the nature of the charges that the Officer should be placed under suspension, Therefore, there should be some material for the Appointing Authority to come to a conclusion about the nature of the charges and the circumstances of the case. The further satisfaction for keeping the Officer under suspension and/or continuing him should also be based on some material. He further submits that even after lapse of 2 years from the date of registration of FIR no charge sheet has been filed as contemplated under law till today.

7 Having regard to the principle enunciated in the case cited supra and also in view of the fact that the entire investigation is based only on documentary evidence i.e. transfer of funds online and also in view of the fact that the extended period of six months from 04.06.2022 had expired by 04.12.2022 and since said suspension is not extended for any further period and also having regard to the fact that no charge sheet is filed even after three years after registration of the case, this Court is of the view that the petitioner deserves the relief of reinstatement into service.

8 Accordingly, this writ petition is allowed, directing the respondents to reinstate the petitioner into service with immediate effect with all consequential benefits including payment of arrears of salary and all other service benefits. No order as to costs. Miscellaneous petitions if any pending in this writ petition shall stand closed.